



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/653,030

08/29/2003

Paul J. Garnett

5681-70900

1562

35690

7590

05/09/2007

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.

P.O. BOX 398

AUSTIN, TX 78767-0398

EXAMINER

WANG, U LUN

ART UNIT

PAPER NUMBER

2616

MAIL DATE

DELIVERY MODE

05/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/653,030

Applicant(s)

GARNETT ET AL.

Examiner

U-Lun Wang

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 6/13/2005.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1, 2, 3, 6, 7, 11 – 18 and 21 - 28 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 3, 5, 15 - 18, 23 - 29 and 31 of U.S. Patent No. 7,209,358 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because the application claim 1 merely broadens the scope of the patented claim 1 by decreasing the limitation of two switching modules to just one switching module and by eliminating a master shelf. It has been held that the omission of an element and its function is an obvious expedient if the remaining elements perform the same function as before. *In re Karlson*, 136 USPQ 184 (CCPA). Also note *Ex parte Rainu*, 168 USPQ 375 (Bd. App.

Art Unit: 2616

1969); omission of a reference element whose function is not needed would be obvious to one skilled in the art.

3. Claims 19 and 20 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 7,209,358 B2 in view of claim 1 of claim 1 of U.S. Patent No. 7,032,037 B2.

For claim 19, claim 1 of U.S. Patent No. 7,209,358 B2 discloses all the subject matter except the computer system wherein each shelf also comprises a service processor module for providing management functions in respect of said information processing modules.

Claim 1 of U.S. Patent No. 7,032,037 B2 discloses (last paragraph) a blade service controller coupled to the control processor, wherein the blade service controller is configured to provide system management functions for the information distribution module.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the disclosure of the above two claims.

The motivation is that most computer systems are designed in this logical manner.

For claim 20, claim 1 of U.S. Patent No. 7,032,037 B2 discloses (last paragraph) a computer system wherein each switching module of each shelf comprises a service processor module.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 2, 10 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Doblar et al. (US Patent 6,922,342), hereafter referred as Doblar.

For claim 1, Doblar discloses a computer system comprising: a plurality of shelves (Fig. 11A, 800A - 800E and 1010A – 1010D), each shelf (Fig. 11A, 800A) having a carrier (Fig. 11A, 800A and 560) for removably receiving a plurality of information processing modules (Fig. 11A, Client 1010A) and a switching module (Fig. 11A, Switch 800A), and an interconnection member (Fig. 11A, Connectors 560) for providing connections between the information processing modules and the switching module; wherein the switching modules (Fig. 11A, 800A – 800E) of the respective

Art Unit: 2616

shelves (Fig. 11A, 800A – 800E and 1010A – 1010D) are interconnected in a logical stacking configuration to form a logical stacking arrangement.

For claim 2, Doblar discloses the computer system (Fig. 11A) of claim 1, wherein the logical stacking configuration is a closed loop (Fig. 2) stacking configuration.

For claim 10, Doblar discloses the computer system wherein each switching module comprises a dedicated connections port (Fig. 10, Connectors 560. Note that a connection port is implied at the connector) for the interconnections of the logical stacking arrangement.

For claim 28, Doblar discloses all the subject matter (See rejection of claim 1 above).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3 - 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doblar in view of Kanekar et al. (US Patent 6,751,191 B1), hereafter referred as Kanekar.

For claim 3, Doblar discloses all the subject matter except the computer system wherein one switching module within the computer system is operable as a master switching module.

Kanekar discloses a computer system (Fig. 3) wherein one switching module (Fig. 3, MASTER 202) is operable as a master switching module.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply Kanekar's disclosure to have one switching module operable as a master switching module in the computer system of Doblar.

The motivation is to have one master module to coordinate the processing of all the switching modules.

For claim 4, Kanekar discloses a computer system (Fig. 3) wherein any switching module within the computer system (Fig. 3, Slave 204) is operable as the master switching module (Col. 3, lines 21 – 23: the switchover time required to switch from the master router to the slave router upon failure of the master router is significantly reduced. Note that after switchover, the slave is acting as the Master switching module).

For claim 5, Kanekar discloses the computer system wherein only one switching module (Fig. 3, MASTER 202) within the computer system operates as a master switch at any given time.

For claim 6, Kanekar discloses the computer system wherein all switching modules in the computers system other than the master switching module are operable as slave switching modules responsive to the master switching module (Fig. 3, Slave 204 and Master 202).

For claim 7, Kanekar discloses the computer system wherein the master switching module (Fig. 7, R1. Note that R1 is the Master Switching Module as in Fig. 3) provides a single ingress/egress point (Fig. 7, Data from LANs and VLANs use R1 as the ingress/egress pint) for data transfer to/from the computer system.

For claim 8, Kanekar discloses the computer system wherein the master switching module (Fig. 3, MASTER 202) of the logical stacking arrangement is a dedicated master switching module (See Col. 1, lines 56 – 61. Note that the Master 202 is a primary router. A primary router is a dedicated switching module).

For claim 9, Doblar and Kanekar disclose the computer system wherein the dedicated master switching module is received in a dedicated master switching shelf (See rejection of claim 3 above. The shelf where the switching module is selected as the master switching module is the master switching shelf).

Art Unit: 2616

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to U-Lun Wang whose telephone number is (571) 270-1140. The examiner can normally be reached on Monday - Friday, 7:30 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on 571-272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

UW/
4/25/2007


CHAU NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600